

**STATE OF WISCONSIN  
MILWAUKEE AND OZAUKEE COUNTIES  
VILLAGE OF BAYSIDE**

**ORDINANCE NO: 06-547**

An Ordinance to Amend Sec. 14-6 with Regard to  
Excavation or Transfer of Solid Fill

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The Village Board of the Village of Bayside, Milwaukee and Ozaukee Counties, Wisconsin do ordain as follows:

Section One: Sec. 14-6 of the Municipal Code is hereby deleted in its entirety and recreated to read as follows:

Section 14-6 Excavation and Transfer of Solid Fill.

- (a) Permit Required. No person shall transfer to, dump, excavate from, or place upon lands, public or private, solid fill within the Village without first obtaining a permit therefore (Excavation/Fill Permit). Solid fill shall include, without limitation, soil, gravel, sand, clay, stone, non-native materials, or any solid excavation spoils.
- (b) Exemptions. No permit shall be required for the following:
  - (1) the total transfer, excavation, dumping, or placement on any property (including contiguous property under the same ownership and within one 365 day period), of less than ten cumulative cubic yards of solid fill;
  - (2) the deposit of less than fifty cumulative cubic yards of topsoil for establishing lawns or planting beds, within one 365-day period;
  - (3) excavation associated with the establishment of a foundation or foundations for any structure subject to a building permit;
  - (4) movement of solid fill within the boundaries of any property (including contiguous property under the same ownership);
  - (5) customary top dressing or fertilizing of lawns and gardens;
  - (6) to construction of stone, brick, block, or concrete patios, driveways, or platforms permitted under this Code; and

- (7) filling pursuant to the requirements of a building permit or demolition permit.

(c) Application. Application for a permit to transfer, place, excavate, or dump solid fill within the Village shall be made by the owner of the lands to be filled or excavated or his or her designated agent in writing and submitted to the Director of Public Works, which application shall be on a form made available by the Village and approved by the Village Board from time to time. A separate permit shall be obtained for each act of filling or excavation requiring a permit. The applicant shall set forth in the application the following information and attachments, as well as any other information required by the Excavation/Fill Permit application form approved by the Village Board:

- (1) location of excavation/fill operation;
- (2) proposed route for hauling solid fill;
- (3) number, type, size and license number of trucks to be used;
- (4) proposed trucking schedule, number of days, and time of day;
- (5) equipment (other than trucks) involved in fill or excavation operation;
- (6) quantity of solid fill to be moved, excavated, or deposited;
- (7) description (including maps) of work to be done;
- (8) proof of suitable access, including any licenses or permission necessary;
- (9) a letter of credit, bond, certificate of insurance, or other financial assurance in an amount necessary to, in the reasonable discretion of the Director of Public Works, provide for the repair of any damage to Village or public property resulting from the excavation/fill operations;
- (10) a description of the purpose of the solid fill or excavation operations;
- (11) a legal description of the property (tax key number shall suffice);
- (12) identification of the soil type and source of solid fill to be utilized in fill operations and method of compaction to be utilized;

- (13) drawings which to the satisfaction of the Department of Public Works sufficiently show pre- and post-excavation/fill site typography;
  - (14) certificates of the Village Treasurer showing payment of all taxes and assessments to date against the property in question;
  - (15) storm water or erosion control permits as may be required in the Municipal Code;
  - (16) any State of Wisconsin DNR permit for work in waterways or lakefronts or a letter from the State of Wisconsin indicating that such permit is not required;
  - (17) any U.S. Army Corps. of Engineers permit for work in waterways or lakefronts or a letter from the U.S. Army Corps. of Engineers indicating that a permit is not required for the particular waterway or lakefront project; and
  - (18) a signed certification from the property owner that no fill deposited in the Village will be hazardous waste under state or federal law.
- (d) Fee. A fee in such amount as set by the Village Board from time to time by ordinance or resolution shall accompany the application for permit. A separate permit shall be obtained for each property. The fee set by the Village Board from time to time shall be determined by the quantity of fill to be excavated from or introduced to a property.
- (e) Financial Assurance. The permittee shall provide whatever financial assurance is required by the Director of Public Works in his reasonable discretion as is necessary to provide security for performance of the work, protection of public property, human health, the environment, and indemnification of the Village for its costs and fees.
- (f) Fill Material. Fill material shall be clean, inert material free from organic matter, brush, garbage and material subject to organic decomposition. Fill containing items such as hollow containers, appliances, and equipment subject to subsequent collapse or settlement is prohibited. Deposit of any fill of a non-native nature shall be subject to Wisconsin Department of Natural Resources Administrative Code NR500 series.
- (g) Conditions. Excavation/Fill Permits shall be subject to the following conditions:

- (1) That the excavation/filling operation will not create noise, traffic or other problems detrimental to any residential community in the area of the excavation/filling;
  - (2) There shall be no excavation or filling between the hours of 5:00 p.m. and 7:00 a.m. on weekdays nor at any time on Saturday, Sunday, or a federal or state holiday;
  - (3) The Director of Public Works shall set the hours of excavation/filling and the number of trucks involved based on the location of the excavation/filling operation and the traffic conditions in the area;
  - (4) Permits shall be for a period not to exceed three consecutive months in a calendar year.
  - (5) Permit applications for subsequent periods when total excavation/filling operations exceed three months will be subject to conditions and fees governing initial application;
  - (6) Permits shall be subject to all of the conditions set forth in the Excavation/Fill Permit Application;
  - (7) Permittee shall satisfy all of the application requirements of the Excavation/Fill Permit Application; and
  - (8) Permits shall be subject to the complete, valid and accurate maintenance of all of the required attachments to the Excavation/Fill Permit Application.
- (h) No fill may be deposited in the Village, whether pursuant to permit or exempt from permitting under this section, which fill constitutes hazardous waste under state or federal law. The Village Manager, or designee, may order the removal of any fill which constitutes hazardous waste.
- (i) Licenses and Drainage Courses. Excavation and filling operations shall also be subject to applicable county, state, or federal license or permit requirements. Excavation and filling operations shall not block or divert a natural drainage course without proper permits.
- (j) Permit. The Director of Public Works is authorized to issue an Excavation/Fill Permit to each Applicant when satisfied that the Applicant meets the requirements of this Section.
- (k) Appeal. Any person who is denied an Excavation/Fill Permit or whose excavation or filling operation is restricted due to noise, traffic, or other

conditions, may appeal to the Board of Appeals pursuant to Sec. 62.23 Wis. Stats.

- (l) Penalty. Any person who violates this Section or who fails to comply with the terms and conditions of the permit issued shall be subject to the penalties provided in § 1-13 of the Municipal Code. Penalties may be applied for each day of violation.
- (m) Responsibility for Violations. Property owners shall be responsible for violations of this section on their property. In addition, any person performing any work or labor in the Village shall be responsible for any violation of this section by such person or by any agent or employee. A subcontractor, and the agents or employees of a subcontractor, for the purposes of this section, shall be considered agents or employees of a property owner.

Section Two: Effective Date: This ordinance shall take effect and be in force from and after its passage and publication.

PASSED AND ADOPTED by the Village Board of Trustees of the Village of Bayside this 2<sup>nd</sup> day of March, 2006.

VILLAGE OF BAYSIDE

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Samuel D. Dickman, Village President

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Lynn A. Galyardt, Village Clerk/Treasurer